

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

CANDACE A. WHITE,

Plaintiff,

vs.

UNITED HEALTHCARE SERVICES,
INC.,

Defendant.

8:18CV495

ORDER

Consistent with the undersigned magistrate judge's case management practices, defense counsel has advised the court that a discovery issue has arisen and she requests a conference with the court to potentially avoid formal motion practice. Defense counsel believes Plaintiff is not complying with prior agreements between counsel and court orders regarding those discovery issues now that Plaintiff's second attorney of record has withdrawn and Plaintiff is self-represented. (see attached). The plaintiff was not, herself, involved in the prior discussions with the court regarding resolution of ongoing discovery and delay issues in this case.

Accordingly,

IT IS ORDERED:

- 1) Under the circumstances presented, a pre-motion conference call is unnecessary. Defendant shall raise its discovery issues by formal motion on or before October 1, 2021. Absent prior notice of an address change, Defendant's motion shall be served on the self-represented Plaintiff by email and U.S. Mail using the addresses within paragraph 4 of this order.

2) Pursuant to the court's local rules, Plaintiff's response shall be filed of record on or before October 18, 2021. To keep this case moving, no reply shall be filed by Defendant absent leave of the court for good cause shown.

3) The summary judgment deadline remains October 18, 2021, and the trial and pretrial conference settings are unchanged.

4) The clerk shall provide a copy of this order to the plaintiff:

By email to: candace.arnetta@gmail.com, and by

U.S. Mail to: Candace White
18601 Bloom Street
Detroit, MI 48234

Dated this 21st day of September, 2021.

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge

From: Cheryl Zwart
To: Baumert, Michaelle L. (Omaha); zwart@ned.uscourts.gov; candace.arnetta@gmail.com
Cc: Dinsmoor, Chris E. (Omaha); Pohlmeier, Brock J. (Omaha)
Subject: RE: White v. United HealthCare Services, Inc. D. Neb. 8:18-cv-00495
Date: Tuesday, September 21, 2021 12:23:51 PM
Attachments: [image001.png](#)

Ms. Baumert:

On or before October 1, file a formal motion, with supporting brief and any evidence, as to the issues raised in your email below.

Ms. Arnetta:

Under the court's local rules, your response will be due 17 days after the motion is filed.

I will then enter a written order on the issues raised in Defendant's motion.

Cheryl R. Zwart
U.S. Courts--Nebraska
100 Centennial Mall N. #566
Lincoln, NE 68508
(402) 437-1670

From: Baumert, Michaelle L. (Omaha) <Michaelle.Baumert@Jacksonlewis.com>
Sent: Tuesday, September 21, 2021 11:56 AM
To: zwart@ned.uscourts.gov; candace.arnetta@gmail.com
Cc: Dinsmoor, Chris E. (Omaha) <Chris.Dinsmoor@jacksonlewis.com>; Pohlmeier, Brock J. (Omaha) <Brock.Pohlmeier@jacksonlewis.com>
Subject: White v. United HealthCare Services, Inc. D. Neb. 8:18-cv-00495

CAUTION - EXTERNAL:

Dear Judge Zwart:

I apologize for bothering the Court for more time again, but I think the parties need a short conference. Last Wednesday, I learned from Plaintiff's counsel that Plaintiff was not going to obtain an Affidavit or any statement from Dr. Silberstein (Plaintiff's former oncologist) to explain the representations made to the Court and Defendant regarding Plaintiff's cancer treatment.

After learning this, I informed Plaintiff's counsel that I would be sending out the Subpoena to Dr. Silberstein, so that the records information could be gathered as soon as possible, to allow Defendant to file a Rule 37/41 Motion to Dismiss this matter based on Plaintiff's subversion of the discovery process and defiance of this Court's orders for months. Before he withdrew, Mr. Riekes

took the position that the Subpoena could not be issued without the Court's involvement in overruling Plaintiff's June objections.

Plaintiff's objections (attached here) were that the records and billing information of Dr. Silberstein were irrelevant, outside the scope of discovery, not properly limited to the time period of the claims or damages claimed by Plaintiff, unreasonably intrusive, and nothing more than a "fishing expedition designed to harass and intimidate Plaintiff." While Defendant believes these objections were effectively overruled during the parties' conference with the Court on June 29, Plaintiff's counsel did not agree last week. Mr. Riekes, of course, was not part of that June 29 conference. As you will recall, during that June 29 conference, the Court allowed Plaintiff to agree to submit the Affidavit of Dr. Silberstein as an alternative to the issuance of the Subpoena. Now that it is clear no Affidavit or any other statement will be forthcoming from Plaintiff, Defendant contends that the Subpoena should be issued. However, out of an abundance of caution, we would request a conference to address this issue before proceeding.

Defendant would also appreciate the opportunity to discuss scheduling, to ensure there is adequate time to file for Summary Judgment in the event its Motion to Dismiss is not granted. When the parties had their September 13 conference, it was not clear that there would be grounds for a Motion to Dismiss this matter. Now that those circumstances are more clear, Defendant would request an extension of time on the Summary Judgment deadline to allow for receipt of the records from Dr. Silberstein, and then briefing and a ruling on Defendant's planned Motion to Dismiss under Rules 37/41. Defendant contends that Plaintiff's delays (both an unnecessary delay in finally providing word that Plaintiff would not obtain the Silberstein Affidavit, and the unnecessary delay for Defendant to obtain Dr. Silberstein's records), should not serve to prejudice Defendant's interests in pursuing both Motions adequately.

Thank you again for your consideration of this matter.

Michaelle Baumert



Michaelle L. Baumert

Attorney at Law

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